IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO 5308 OF 2001

1. S.C.Oswal,
   Age : 57 years, resident
   of 37-F, New Bazar,
   Lonavala, District Pune-410 401

2. Kantilal J.Palresha,
   Age 52 years, resident of
   G-Ward, Lonavala,
   District Pune-410 401 ..Petitioners

Versus

1. Chief Officer/Administrator
   Lonavala Municipal Council
   Lonavala

2. State of Maharashtra
   through the Secretary,
   Department of urban
   Development, Mantralaya,
   Bombay-400 032.

3. The Assistant Director,
   Town Planning,
   43, Narayan Peth,
   Pune-400 030. ..Respondents

Mr.V.P.Sawant for the petitioners.

Mr.R.S.Apte for respondent no.1.

Mr.C.R.Sonawane AGP for respondent nos.2 & 3.

Coram : S.B.Mhase &
R.S.Mohite,JJ

Date : 21.06.2007.

Judgment:- (Per : R.S.Mohite,J)

1. Heard both sides.

2. Mr.Sonawane the learned AGP for respondent nos.2 & 3 has brought to our notice that as of today, the land bearing R.S. 37 which is the subject matter of this petition has been excluded from any proposal in view of the High Court's Order dated 9.4.1990 in Writ Petition No.461 of 1990. We called for the papers of Writ Petition No.461 of 1990 and it appears that in that Petition, by an order dated 9.4.1990 in-terim relief was granted in terms of prayer clause-(bb) and rule was issued. The said prayer clause-(bb) was in the following terms :-

> "(bb) that pending the hearing and final disposal of this petition, respondent No.1 be restrained by an order and injunction of this Hon'ble Court from acting in furtherance of and/or implementing the resolution passed by Lonavala Municipal Council being No.105 on 7th February,1990, being Exh.E hereto"

3. We find that the interim relief was not directed against respondent nos.2 & 3. However, on the basis of the aforesaid order dated 9.4.1990 passed by this Court the Planning Authority chose to exclude R.S.37 from any proposal for reservation. We are further informed that the revised draft plan has been sanctioned by the Government on 29.6.2005 and the said exclusion continues today. In this view of the matter, since admittedly today, there is no

reservation on the said land, we do not find it necessary to decide the issues raised in the petition. The petition is disposed off with a direction that the application for development dated 18.8.1989 will be re-considered on the footing that there is no reservation on R.S.37 Hissa No.8 as of today. Rule made absolute accordingly.

(R.S.Mohite,J) **(S.B.Mhase,J)**